

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DERRICK DALE FONTROY, et al., : CIVIL ACTION
Plaintiffs :
v. :
GOVERNOR MARK S. SCHWEIKER, et al.,:
Defendants : NO. 02-2949

ORDER

AND NOW, this day of , 2003, it is ORDERED that
Plaintiffs' Motion for Emergency Relief is DENIED.

BY THE COURT:

TIMOTHY J. SAVAGE, J.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DERRICK DALE FONTROY, et al., : CIVIL ACTION
Plaintiffs :
v. :
GOVERNOR MARK S. SCHWEIKER, et al.,:
Defendants : NO. 02-2949

**DEFENDANTS' RESPONSE TO PLAINTIFFS'
MOTION FOR EMERGENCY RELIEF**

Plaintiffs have filed a motion for emergency relief in which they allege that since September 30, 2003 they have not received any mail. They do not tell the Court that they have caused this themselves.

Immediately before September 30, 2003, each of the plaintiffs revoked the Power of Attorney that he had signed authorizing the Department of Corrections to receive his mail. Attached hereto are the pre-existing powers of attorney that the plaintiffs had signed and their revocations of those powers. Without a valid power of attorney, the Department of Corrections cannot receive mail on behalf of an inmate. *Guyer v. Beard*, 907 F.2d 1424 (3d Cir. 1990).

Plaintiffs attempted to submit their own powers of attorney. However, the Department of Corrections has rejected their proffered powers. See Memo dated October 10, 2003, copy attached. The Department has notified plaintiffs

of its position and offered plaintiffs the opportunity to sign acceptable powers. The Department will hold plaintiffs' mail for ten days pending their decisions.

The Third Circuit has held that the Department of Corrections may refuse an inmate's incoming mail where the inmate refuses to sign a power of attorney authorizing the Department to receive the mail. *Guyer v. Beard*, 907 F.2d at 1428. The Department's receipt of the mail may be subject to the Department's rules regarding incoming mail, such as opening and inspection. *Id.* The U.S. Postal Service has issued a ruling stating the same. See Customer Support Ruling, copy attached. Plaintiffs may receive their mail, in accordance with the Department's rules, if they sign a proper power of attorney.

D. MICHAEL FISHER
ATTORNEY GENERAL

BY: s/ John O. J. Shellenberger
John O.J. Shellenberger
Chief Deputy Attorney General
Identification No. 09714

OFFICE OF ATTORNEY GENERAL
21 S. 12th Street, 3rd Floor
Philadelphia, PA 19107-3603
Telephone: (215) 560-2940
Fax: (215) 560-1031

PRE-EXISTING POWERS OF ATTORNEY

DC-155
Rev. 2-91

LEGAL DISPOSITIONS

SCIL
(INSTITUTION)COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS

1. POWER OF ATTORNEY

I, (print inmate name and DCI number) DK 0199 PAVLICHKO, do make, constitute, and appoint the Superintendent/Director, or his/her authorized representative, of any institution, facility or center within the Department of Corrections to which I am then confined my true and lawful attorney for me and in my name to sign my name as endorsement on all checks, money orders, or bank drafts for deposit to my credit in the Inmate General Welfare Fund Cash Account and to receive and document receipt of mail on my behalf. This power shall continue so long as I am an inmate of any institution, facility or center within the Department of Corrections and shall not be affected by my subsequent disability or incapacity while confined therein unless sooner revoked. This power shall be for the doing of all lawful acts necessary to carry out the purposes set forth above. I hereby ratify, confirm and intend to be bound by any and all acts, as described in the previous sentence, which these attorneys or substitutes shall commit pursuant to this power of attorney.

Witnessed by: _____

Inmate's

Signature: James PavlichkoWitnessed by: A Sever

2. DESIGNATION OF GUARDIAN OF PROPERTY

I, (print inmate's name and DCI number) DK 0199 PAVLICHKO, hereby designate (print guardian's name) VERONICA PAVLICHKO, who lives at (print street address) RR#4 Box 4161, (print city or town) HAZLETON, (print county) _____, (print state) PA, (postal zip code) 18201 telephone (717) 459-2532, as the guardian of all property to which I hold lawful title at the time of my death which is either in my personal possession or in one of the facilities or an account of the Department of Corrections to hold until such property shall be disposed of according to law. This designation shall be null, void and of no further effect upon my release from the jurisdiction of the Department of Corrections.

James Pavlichko
Inmate's Signature9-3-97

Date

Witness

A Sever

Witness

Date

9-3-97

Date

3. ADVISEMENT OF RIGHT OF COMMUNICATION

If any problem arises within the institution concerning your confinement, you may bring the matter to the attention of the appropriate staff members for assistance. The Inmate Complaint Review System may be used if applicable. In addition, you may address privileged communication at any time to the Superintendent, the Deputy Commissioner of Corrections, the Commissioner of Corrections, the Attorney General, the Governor, or any elected local official or any appointed or elected state or federal official. This is not to be construed as limiting your access to the courts in any way. I have read or have been read the following advisement and hereby acknowledge receipt thereof.

Inmate's Signature <u>James Pavlichko</u>	Witness <u>A Sever</u>	Date <u>9-3-97</u>
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FORM DC-155
Rev. 3-87

LEGAL DISPOSITIONS

EDCC
(INSTITUTION)COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS

1. POWER OF ATTORNEY

I, (print inmate name and DCI number) X Theodore Savage Jr., do make, constitute, and appoint the Superintendent/Director, or his/her authorized representative, of any institution, facility or center within the Department of Corrections to which I am then confined my true and lawful attorney for me and in my name to sign my name as endorsement on all checks, money orders, or bank drafts for deposit to my credit in the Inmate General Welfare Fund Cash Account and to receive and document receipt of mail on my behalf. This power shall continue so long as I am an inmate of any institution, facility or center within the Department of Corrections and shall not be affected by my subsequent disability or incapacity while confined therein unless sooner revoked. This power shall be for the doing of all lawful acts necessary to carry out the purposes set forth above. I hereby ratify, confirm and intend to be bound by any and all acts, as described in the previous sentence, which these attorneys or substitutes shall commit pursuant to this power of attorney.

Witnessed by:

M. Zimmerman

Witnessed by:

2. DESIGNATION OF GUARDIAN OF PROPERTY

I, (print inmate's name and DCI number) SAVAGE THEODORE CB-2674, hereby designate (print guardian's name) X SARAH A. SAVAGE (WIFE), who lives at (print street address) 221 Hudsonale, St., (print city or town) Weatherly, (print county) CARBON, (print state) PENN., (postal zip code) 18255, telephone (717) 427-8280, as the guardian of all property to which I hold lawful title at the time of my death which is either in my personal possession or in one of the facilities or an account of the Department of Corrections to hold until such property shall be disposed of according to law. This designation shall be null, void and of no further effect upon my release from the jurisdiction of the Department of Corrections.

X Theodore Savage Jr.
Inmate's Signature4/12/93
DateM. Zimmerman
Witness4/12/93
Date

Witness

Date

3. ADVISEMENT OF RIGHT OF COMMUNICATION

If any problem arises within the institution concerning your confinement, you may bring the matter to the attention of the appropriate staff members for assistance. The Inmate Complaint Review System may be used if applicable. In addition, you may address privileged communication at any time to the Superintendent, the Deputy Commissioner of Corrections, the Commissioner of Corrections, the Attorney General, the Governor, or any elected local official or any appointed or elected state or federal official. This is not to be construed as limiting your access to the courts in any way. I have read or have been read the following advisement and hereby acknowledge receipt thereof.

Inmate's Signature

Witness

Date

Theodore Savage Jr.M. Zimmerman4/12/93

RM **BC-155**
Rev. 1-79**LEGAL DISPOSITIONS**SDIC1
(INSTITUTION)**COMMONWEALTH OF PENNSYLVANIA
BUREAU OF CORRECTION****1. POWER OF ATTORNEY**

KNOW ALL MEN BY THESE PRESENTS, that I do make, constitute, and appoint the Superintendent/Director of this institution, or his/her authorized representative or the Superintendent/Director of any institution within the Bureau of Correction to which I may be subsequently transferred or his/her authorized representative, my true and lawful attorney for me and in my name to sign my name as endorsement on all checks, money orders, or bank drafts for deposit to my credit in the Inmate's Escrow Account and to receive and document receipt of mail on my behalf. This power to continue so long as I am a prisoner in any institution under the Bureau of Correction, unless sooner revoked, with power of attorney or attorneys under them for that purpose to make and substitute, and do all lawful acts requisite for effecting the premises; hereby ratifying and confirming all that the said attorneys or substitute or substitutes shall do therein by virtue of these presents.

IN WITNESS WHEREOF I have hereunto set my hand and seal this 9 day of Sept 1906

Inmate's
SignatureDerrick FontroyWitnessed by: Bull

Witnessed by: _____

2. DESIGNATION OF GUARDIAN OF PROPERTY

I hereby designate MARY FONTROY (GRAND MOTHER), who lives at 14928 RENO ST PHILA PA, 19136, in the county of _____ as the guardian of all property which is in my personal possession at the time of my death or in one of the facilities or accounts of the Bureau of Correction to hold until they may be disposed of according to law. This designation shall be null and void upon my release from the jurisdiction of the Bureau of Correction.

Name: Derrick FontroyDate: 9-8-06Witnessed by: Bull

Witnessed by: _____

3. ADVISEMENT OF RIGHT OF COMMUNICATION

If any problem arises within the institution concerning your confinement, you may bring the matter to the attention of the appropriate staff members for assistance. The Inmate Complaint Review System may be used if applicable. In addition, you may address privileged communication at any time to the Superintendent, the Deputy Commissioner of Correction, the Commissioner of Correction, the Attorney General, the Governor, or any elected local official or any appointed or elected state or federal official. This is not to be construed as limiting your access to the courts in any way.

Inmate's Signature

Witness

Date

Derrick D. FontroyBull9-8-06

FORM DC-155
Rev. 3-87

LEGAL DISPOSITIONS

EDCC

(INSTITUTION)

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS

BZ 2590

1. POWER OF ATTORNEY

I, (print inmate name and DCI number) X Aaron C. Wheeler, do make, constitute, and appoint the Superintendent/Director, or his/her authorized representative, of any institution, facility or center within the Department of Corrections to which I am then confined my true and lawful attorney for me and in my name to sign my name as endorsement on all checks, money orders, or bank drafts for deposit to my credit in the Inmate General Welfare Fund Cash Account and to receive and document receipt of mail on my behalf. This power shall continue so long as I am an inmate of any institution, facility or center within the Department of Corrections and shall not be affected by my subsequent disability or incapacity while confined therein unless sooner revoked. This power shall be for the doing of all lawful acts necessary to carry out the purposes set forth above. I hereby ratify, confirm and intend to be bound by any and all acts, as described in the previous sentence, which these attorneys or substitutes shall commit pursuant to this power of attorney.

Witnessed by: Thomas J. R. [Signature]

Witnessed by: _____

2. DESIGNATION OF GUARDIAN OF PROPERTY

I, (print inmate's name and DCI number) AARON WHEELER, hereby designate (print guardian's name) Rachel A. Wheeler, who lives at (print street address) 6734 Woolston Ave., (print city or town) Phila., (print county) Phila, (print state) PA, (postal zip code) 19138, telephone (215) 424-7474, as the guardian of all property to which I hold lawful title at the time of my death which is either in my personal possession or in one of the facilities or an account of the Department of Corrections to hold until such property shall be disposed of according to law. This designation shall be null, void and of no further effect upon my release from the jurisdiction of the Department of Corrections.

X Aaron C. Wheeler
Inmate's Signature

12/11/92
Date

Thomas J. R. [Signature]
Witness

12/11/92
Date

Witness

Date

3. ADVISEMENT OF RIGHT OF COMMUNICATION

If any problem arises within the institution concerning your confinement, you may bring the matter to the attention of the appropriate staff members for assistance. The Inmate Complaint Review System may be used if applicable. In addition, you may address privileged communication at any time to the Superintendent, the Deputy Commissioner of Corrections, the Commissioner of Corrections, the Attorney General, the Governor, or any elected local official or any appointed or elected state or federal official. This is not to be construed as limiting your access to the courts in any way. I have read or have been read the following advisement and hereby acknowledge receipt thereof.

Inmate's Signature	Witness	Date
<u>X Aaron C. Wheeler</u>	<u>Thomas J. R. [Signature]</u>	<u>12/11/92</u>

REVOCATIONS AND PROFFERED POWERS

DATE: September 29, 2003

SUBJECT: INCOMING COURT & ATTORNEY MAIL

TO: MS. KIM ULISNY, Mail Supervisor
SCI-Graterford

FROM: *James Pavlichko, Sr.*
JAMES PAVLICHKO, SR., #DK-0199
SCIG, D-B-1057

Ms. Ulisny:

Enclosed herein you will find a revised POWER OF ATTORNEY regarding the handling of my incoming Court and Attorney Mail. This Power of Attorney revokes the Power of Attorney executed by me when originally placed in the jurisdiction of the Pa. Dept. of Corrections.

Under the express terms of the revised Power of Attorney, Court and Attorney mail CANNOT BE OPENED OUTSIDE MY PRESENCE any longer. All such mail must be opened and inspected ONLY IN MY PRESENCE.

The opening of Court or Attorney mail outside my presence will be provided to the U.S. Attorneys Office for investigation and prosecution for violating the Federal Crimes Code, 18 U.S.C. §1701 & §1702.

Thank you for your time and attention in this matter. If you have any questions, you should contact the Chief Postal Inspectors Office, in Washington, D.C. or your attorney.

enclosure: POWER OF ATTORNEY

cc: David DiGuglielmo, Supt.
Jeffrey A. Beard
Chief Postal Inspector
File

POWER OF ATTORNEY

TO ALL WHOM THIS DOCUMENT MAY REACH:

I, James Pavlichko #DK-0199, do make, constitute, and appoint the Superintendent/Director, or his/her authorized representative, of any institution, facility or center within the Department of Corrections to which I am then confined my true and lawful attorney for me and in my name to sign my name as endorsement on all checks, money orders, or bank drafts for deposit to my credit in the Inmate General Welfare Fund Cash Account and to receive and document receipt of mail on my behalf. This power of attorney regarding receipt of mail is limited solely to open and inspect for contraband "personal correspondence", and I do not authorize my attorney to open and inspect any incoming mail from any state or federal Court, Attorney at Law, or State or federal elected or appointed officials, which shall be opened and inspected for contraband ONLY IN MY PRESENCE. See: 18 U.S.C. §1701 & §1702. (OPENING AND INSPECTING OF INCOMING COURT, ATTORNEY OR MAIL FROM STATE OR FEDERAL ELECTED OFFICIALS OUTSIDE MY PRESENCE WILL BE DEEMED A FEDERAL OFFENSE). This power shall continue so long as I am an inmate of any institution, facility or center within the Department of Corrections and shall not be affected by my subsequent disability or incapacity while confined therein unless sooner revoked. This power of attorney shall be for the doing of all lawful acts necessary to carry out the purposes set forth above. I hereby ratify, confirm and intend to be bound by any and all acts, as described in the previous sentence, which these attorneys or substitutes shall commit pursuant to this power of attorney.

I hereby revoke and make null and void the power of attorney executed by me in this regard on September 3, 1997, [DC-155 (Legal Dispositions)] and all provisions thereof shall be of no effect and are hereby revoked in their entirety.

A copy of this power of attorney is being served on the Pennsylvania Department of Corrections, Secretary of Corrections, and Superintendent DAVID DIGUGLIELMO, SCI-Graterford, advising them of the revocation of the September 3, 1997, Power of Attorney which is hereby revoked and null and void.

IN WITNESS WHEREOF I SET MY HAND AND SEAL THIS 29th DAY OF September, 2003.

James Pavlichko
JAMES PAVLICHKO, #DK-0199
SCI-Graterford

SUBSCRIBED BEFORE ME THIS 29th DAY OF September, 2003.

William D. Conrad

NOTARY PUBLIC

NOTARIAL SEAL
WILLIAM D. CONRAD, Notary Public
Skipack Twp., Montgomery County
My Commission Expires 5/26/2007

DATE: September 29, 2003

SUBJECT: INCOMING COURT & ATTORNEY MAIL

TO: MS. KIM ULISNY, Mail Supervisor
SCI-Graterford

FROM: *Theodore Savage*
THEODORE SAVAGE, #CB2674
SCIG, D-B-1050

Ms. Ulisny:

Enclosed herein you will find a revised POWER OF ATTORNEY regarding the handling of my incoming Court and Attorney Mail. This Power of Attorney revokes the Power of Attorney executed by me when originally placed in the jurisdiction of the Pa. Dept. of Corrections.

Under the express terms of the revised Power of Attorney, Court and Attorney mail CANNOT BE OPENED OUTSIDE MY PRESENCE any longer. All such mail must be opened and inspected ONLY IN MY PRESENCE.

The opening of Court or Attorney mail outside my presence will be provided to the U.S. Attorneys Office for investigation and prosecution for violating the Federal Crimes Code, 18 U.S.C. §1701 & §1702.

Thank you for your time and attention in this matter. If you have any questions, you should contact the Chief Postal Inspectors Office, in Washington, D.C. or your attorney.

enclosure: POWER OF ATTORNEY

cc: David DiGuglielmo Supt.
Jeffrey A. Beard
Chief Postal Inspector
File

POWER OF ATTORNEY

TO ALL WHOM THIS DOCUMENT MAY REACH:

I, THEODORE SAVAGE, DOC#: CB-2674, do make, constitute, and appoint the Superintendent/Director, or his/her authorized representative, of any institution, facility or center within the Department of Corrections to which I am then confined my true and lawful attorney for me and in my name to sign my name as endorsement on all checks, money orders, or bank drafts for deposit to my credit in the Inmate General Welfare Fund Cash Account and to receive and document receipt of mail on my behalf. This power of attorney regarding receipt of mail is limited solely to open and inspect for contraband "personal correspondence", and I do not authorize my attorney to open and inspect any incoming mail from any state or federal Court, Attorney at Law, or State or federal elected or appointed officials, which shall be opened and inspected for contraband ONLY IN MY PRESENCE. See: 18 U.S.C. §1701 & §1702. (OPENING AND INSPECTING OF INCOMING COURT, ATTORNEY OR MAIL FROM STATE OR FEDERAL ELECTED OFFICIALS OUTSIDE MY PRESENCE WILL BE DEEMED A FEDERAL OFFENSE). This power shall continue so long as I am an inmate of any institution, facility or center within the Department of Corrections and shall not be affected by my subsequent disability or incapacity while confined therein unless sooner revoked. This power of attorney shall be for the doing of all lawful acts necessary to carry out the purposes set forth above. I hereby ratify, confirm and intend to be bound by any and all acts, as described in the previous sentence, which these attorneys or substitutes shall commit pursuant to this power of attorney.

I hereby revoke and make null and void the power of attorney executed by me in this regard on APRIL 12, 1993, [DC-155 (Legal Dispositions)] and all provisions thereof shall be of no effect and are hereby revoked in their entirety.

A copy of this power of attorney is being served on the Pennsylvania Department of Corrections, Secretary of Corrections, and Superintendent DAVID DIGUGLIELMO, SCI-Graterford, advising them of the revocation of the APRIL 12, 1993, Power of Attorney which is hereby revoked and null and void.

IN WITNESS HEREOF I SET MY HAND AND SEAL THIS 29th DAY OF September, 2003.

Theodore Savage
THEODORE SAVAGE, #CB-2674
SCI-Graterford

SUBSCRIBED BEFORE ME THIS 29th DAY OF September, 2003.

William D. Conrad
NOTARY PUBLIC

NOTARIAL SEAL
WILLIAM D. CONRAD, Notary Public
Skippack Twp., Montgomery County
My Commission Expires 5/26/2007

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a true and correct copy of the foregoing document(s) upon the following individual(s), by Regular First Class Mail, Postage Prepaid, and addressed as follows:

Mr. John Shellenberger, Esquire
Chief Deputy Att. General
21 S. 12th Street, 3rd
Philadelphia, PA 19107

Jeffrey Beard, Secretary
Pa. Dept. of Corrections
P.O. Box 598
Camp Hill, PA 17001-0598

Chief Postal Inspector
Inspection Service Department
475 L'Enfant Plaza, West S.W.
Washington, DC 20260-2100

SERVICE BY HAND DELIVERY:

David DiGuglielmo, Superintendent
SCI-Graterford
Box 246, Route 29
Graterford, PA 19426

DATE: 9-29-03

BY: Theodore Savage
THEODORE SAVAGE
SCI-Graterford, #CB-2674
Box 244, Route 29
Graterford, PA 19426

DATE: September 29, 2003

SUBJECT: INCOMING COURT & ATTORNEY MAIL

TO: MS. KIM ULISNY, Mail Supervisor
SCI-Graterford

FROM: DERRICK D. FONTROY, I., #AY-7513
SCIG, D-B-1060

Ms. Ullisny:

Enclosed herein you will find a revised POWER OF ATTORNEY regarding the handling of my incoming Court and Attorney Mail. This Power of Attorney revokes the Power of Attorney executed by me when originally placed in the jurisdiction of the Pa. Dept. of Corrections.

Under the express terms of the revised Power of Attorney, Court and Attorney mail CANNOT BE OPENED OUTSIDE MY PRESENCE any longer. All such mail must be opened and inspected ONLY IN MY PRESENCE.

The opening of Court or Attorney mail outside my presence will be provided to the U.S. Attorneys Office for investigation and prosecution for violating the Federal Crimes Code, 18 U.S.C. §1701 & §1702.

Thank you for your time and attention in this matter. If you have any questions, you should contact the Chief Postal Inspectors Office, in Washington, D.C. or your attorney.

enclosure: POWER OF ATTORNEY

cc: David DiGuglielmo, Supt.
Jeffrey A. Beard
Chief Postal Inspector
File

POWER OF ATTORNEY

TO ALL WHOM THIS DOCUMENT MAY REACH:

I, Derrick Dale Fontroy II, do make, constitute, and appoint the Superintendent/Director, or his/her authorized representative, of any institution, facility or center within the Department of Corrections to which I am then confined my true and lawful attorney for me and in my name to sign my name as endorsement on all checks, money orders, or bank drafts for deposit to my credit in the Inmate General Welfare Fund Cash Account and to receive and document receipt of mail on my behalf. This power of attorney regarding receipt of mail is limited solely to open and inspect for contraband "personal correspondence", and I do not authorize my attorney to open and inspect any incoming mail from any state or federal Court, Attorney at Law, or State or federal elected or appointed officials, which shall be opened and inspected for contraband ONLY IN MY PRESENCE. See: 18 U.S.C. §1701 & §1702. (OPENING AND INSPECTING OF INCOMING COURT, ATTORNEY OR MAIL FROM STATE OR FEDERAL ELECTED OFFICIALS OUTSIDE MY PRESENCE WILL BE DEEMED A FEDERAL OFFENSE). This power shall continue so long as I am an inmate of any institution, facility or center within the Department of Corrections and shall not be affected by my subsequent disability or incapacity while confined therein unless sooner revoked. This power of attorney shall be for the doing of all lawful acts necessary to carry out the purposes set forth above. I hereby ratify, confirm and intend to be bound by any and all acts, as described in the previous sentence, which these attorneys or substitutes shall commit pursuant to this power of attorney.

I hereby revoke and make null and void the power of attorney executed by me in this regard on September 8, 1986, [DC-155 (Legal Dispositions)] and all provisions thereof shall be of no effect and are hereby revoked in their entirety.

A copy of this power of attorney is being served on the Pennsylvania Department of Corrections, Secretary of Corrections, and Superintendent DAVID DIGUGLIEMO, SCI-Graterford, advising them of the revocation of the September 8, 1986, Power of Attorney which is hereby revoked and null and void.

IN WITNESS HEREOF I SET MY HAND AND SEAL THIS 29th DAY OF September, 2003

Derrick Dale Fontroy II
DERRICK FONTROY, I. #AY7513
SCI-Graterford

SUBSCRIBED BEFORE ME THIS 29th DAY OF September, 2003.

William D Conrad
WILLIAM CONRAD
NOTARY PUBLIC

NOTARIAL SEAL
WILLIAM D. CONRAD, Notary Public
Skipack Twp., Montgomery County
My Commission Expires 5/26/2007

ORM BC-155
Rev. 1-79

LEGAL DISPOSITIONS

SDIC1
(INSTITUTION)COMMONWEALTH OF PENNSYLVANIA
BUREAU OF CORRECTION

1. POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, that I do make, constitute, and appoint the Superintendent/Director of this institution, or his/her authorized representative or the Superintendent/Director of any institution within the Bureau of Correction to which I may be subsequently transferred or his/her authorized representative, my true and lawful attorney for me and in my name to sign my name as endorsement on all checks, money orders, or bank drafts for deposit to my credit in the Inmate's Escrow Account and to receive and document receipt of mail on my behalf. This power to continue so long as I am a prisoner in any institution under the Bureau of Correction, unless sooner revoked, with power of attorney or attorneys under them for that purpose to make and substitute, and do all lawful acts requisite for effecting the premises; hereby ratifying and confirming all that the said attorneys or substitute or substitutes shall do therein by virtue of these presents.

IN WITNESS WHEREOF I have hereunto set my hand and seal this 9 day of Sept 1906

Inmate's
SignatureDerrick FontroyWitnessed by: Bull

Witnessed by: _____

2. DESIGNATION OF GUARDIAN OF PROPERTY

I hereby designate MARY FONTROY (GRANDMOTHER), who lives at 14928 RENO ST PHILA PA, 19136, in the county of _____ as the guardian of all property which is in my personal possession at the time of my death or in one of the facilities or accounts of the Bureau of Correction to hold until they may be disposed of according to law. This designation shall be null and void upon my release from the jurisdiction of the Bureau of Correction.

Name:

Derrick FontroyDate 9-8-06Witnessed by: Bull

Witnessed by: _____

3. ADVISEMENT OF RIGHT OF COMMUNICATION

If any problem arises within the institution concerning your confinement, you may bring the matter to the attention of the appropriate staff members for assistance. The Inmate Complaint Review System may be used if applicable. In addition, you may address privileged communication at any time to the Superintendent, the Deputy Commissioner of Correction, the Commissioner of Correction, the Attorney General, the Governor, or any elected local official or any appointed or elected state or federal official. This is not to be construed as limiting your access to the courts in any way.

Inmate's Signature

Witness

Date

Derrick D. FontroyBull9-8-06

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a true and correct copy of the foregoing document(s) upon the following individual(s), by Regular First Class Mail, Postage Prepaid, and addressed as follows:

Mr. John Shellenberger, Esquire
Chief Deputy Att. General
21 S. 12th Street, 3rd
Philadelphia, PA 19107

Jeffrey Beard, Secretary
Pa. Dept. of Corrections
P.O. Box 598
Camp Hill, PA 17001-0598

SERVICE BY HAND DELIVERY:

David DiGuglielmo, Superintendent
SCI-Graterford
Box 246, Route 29
Graterford, PA 19426

DATE: 9-29-03

BY: D. D. Fontroy, I.
SCI-Graterford
Box 244, Route 29
Graterford, PA 19426

DATE: September 29, 2003

SUBJECT: INCOMING COURT & ATTORNEY MAIL

TO: MS. KIM ULISNY, Mail Supervisor
SCI-Graterford

FROM: AARON C. WHEELER, #BZ-2590
SCIG, D-B-1059

Ms. Ulisny:

Enclosed herein you will find a revised POWER OF ATTORNEY regarding the handling of my incoming Court and Attorney Mail. This Power of Attorney revokes the Power of Attorney executed by me when originally placed in the jurisdiction of the Pa. Dept. of Corrections.

Under the express terms of the revised Power of Attorney, Court and Attorney mail CANNOT BE OPENED OUTSIDE MY PRESENCE any longer. All such mail must be opened and inspected ONLY IN MY PRESENCE.

The opening of Court or Attorney mail outside my presence will be provided to the U.S. Attorneys Office for investigation and prosecution for violating the Federal Crimes Code, 18 U.S.C. §1701 & §1702.

Thank you for your time and attention in this matter. If you have any questions, you should contact the Chief Postal Inspectors Office, in Washington, D.C. or your attorney.

enclosure: POWER OF ATTORNEY

cc: David DiGuglielmo, Supt.
Jeffrey A. Beard
Chief Postal Inspector
File

POWER OF ATTORNEY

TO ALL WHOM THIS DOCUMENT MAY REACH:

I, Aaron C. Wheeler, do make, constitute, and appoint the Superintendent/Director, or his/her authorized representative, of any institution, facility or center within the Department of Corrections to which I am then confined my true and lawful attorney for me and in my name to sign my name as endorsement on all checks, money orders, or bank drafts for deposit to my credit in the Inmate General Welfare Fund Cash Account and to receive and document receipt of mail on my behalf. This power of attorney regarding receipt of mail is limited solely to open and inspect for contraband "personal correspondence", and I do not authorize my attorney to open and inspect any incoming mail from any state or federal Court, Attorney at Law, or State or federal elected or appointed officials, which shall be opened and inspected for contraband ONLY IN MY PRESENCE. See: 18 U.S.C. §1701 & §1702. (OPENING AND INSPECTING OF INCOMING COURT, ATTORNEY OR MAIL FROM STATE OR FEDERAL ELECTED OFFICIALS OUTSIDE MY PRESENCE WILL BE DEEMED A FEDERAL OFFENSE). This power shall continue so long as I am an inmate of any institution, facility or center within the Department of Corrections and shall not be affected by my subsequent disability or incapacity while confined therein unless sooner revoked. This power of attorney shall be for the doing of all lawful acts necessary to carry out the purposes set forth above. I hereby ratify, confirm and intend to be bound by any and all acts, as described in the previous sentence, which these attorneys or substitutes shall commit pursuant to this power of attorney.

I hereby revoke and make null and void the power of attorney executed by me in this regard on December 11, 1992, [DC-155 (Legal Dispositions)] and all provisions thereof shall be of no effect and are hereby revoked in their entirety.

A copy of this power of attorney is being served on the Pennsylvania Department of Corrections, Secretary of Corrections, and Superintendent DAVID DIGUGLIEMO, SCI-Graterford, advising them of the revocation of the Aaron C. Wheeler, Power of Attorney which is hereby revoked and null and void.

IN WITNESS WHEREOF I SET MY HAND AND SEAL THIS 29th DAY OF September, 2003.

Aaron Wheeler
AARON WHEELER, #B2-2590
SCI-Graterford

SUBSCRIBED BEFORE ME THIS 29th, DAY OF September, 2003.

William Conrad
WILLIAM CONRAD
NOTARY PUBLIC

NOTARIAL SEAL
WILLIAM D. CONRAD, Notary Public
Skipack Twp., Montgomery County
My Commission Expires 5/26/2007

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a true and correct copy of the foregoing document(s) upon the following individual(s), by Regular First Class Mail, Postage Prepaid, and addressed as follows:

Mr. John Shellenberger, Esquire
Chief Deputy Att. General
21 S. 12th Street, 3rd
Philadelphia, PA 19107

Jeffrey Beard, Secretary
Pa. Dept. of Corrections
P.O. Box 598
Camp Hill, PA 17001-0598

SERVICE BY HAND DELIVERY:

David DiGuglielmo, Superintendent
SCI-Graterford
Box 246, Route 29
Graterford, PA 19426

DATE: 9/29/03

BY: 

SCI-Graterford
Box 244, Route 29
Graterford, PA 19426

MEMO FROM SUPERINTENDENT OCT. 10, 2003

COMMONWEALTH OF PENNSYLVANIA
Department of Corrections
SCI-Graterford
Superintendent's Office
(610) 489-4151
October 10, 2003

SUBJECT: DC-155, POWER OF ATTORNEY

TO: Derrick Fontroy, AY-7513, D Unit
Aaron Wheeler, BZ-2590, D Unit
James Pavlichko, DK-0199, D Unit
Theodore Savage, CB-2674, D Unit


FROM: David DiGuglielmo
Superintendent

The Department of Corrections will not accept mail on your behalf under the terms set forth in your modified Power of Attorney form. Since you have revoked the Power of Attorney you previously signed, this means that the Department will no longer accept mail on your behalf. You will be unable to maintain an inmate account or purchase items from commissary. Your inmate account will be frozen and you will not be able to make any financial transactions. This situation will exist until such time as you sign the Power of Attorney form provided to you by the Department.

I have been informed that at least one piece of mail addressed to you from the United States District Court for the Eastern District of Pennsylvania has been deposited with the SCI-Graterford mailroom. The mailroom will hold this mail for ten days from the date of this memorandum to give you time to sign the Department's Power of Attorney form. If you have not signed the Department's form by October 20, 2003, the mail will be returned to the court. You may obtain a Power of Attorney form from your Unit Manager on D Unit.

DD/RS/kjb

cc: Business Manager
Mailroom Supervisor
Inmate Accounting
Mr. Kovalchik
Ms. Dennis
Mr. Sears

DC15, AY-7513
DC15, BZ-2590
DC15, DK-0199
DC15, CB-2674
File

"Our mission is to protect the public by confining persons committed to our custody in safe, secure facilities, and to provide opportunities for inmates to acquire the skills and values necessary to become productive law-abiding citizens; while respecting the rights of crime victims."

U.S. POSTAL SERVICE CUSTOMER SUPPORT RULING

Customer Support Ruling
Business Mail Acceptance
Headquarters, US Postal Service
Washington DC 20260-6808

Mail Addressed to Prisoners

PS-206 (D042, F010)

UPDATED October 1996

Mail addressed to inmates or prisoners of institutions is handled as provided in Postal Operations Manual (POM), section 615.1. The POM provides that such mailpieces are to be delivered to the institutions authorities who, in turn, deliver the mail to the addressee under the institution's rules and regulations. If the addressee is no longer at that address, the mail must be redirected to his or her current address by the institution. If the forwarding address is unknown, the mail is returned to the post office.

In general, the authorized personnel of prisons, jails, or other correctional institutions, in accordance with the institution's lawful rules and regulations, may open, examine, and censor mail addressed to an inmate of the institution, if the inmate-addressee consents to receive his mail at through the institutional authorities. If the inmate does not consent, the personnel may either deliver the inmate's mail to the inmate unopened, or return it to the post office unopened marked, "Refused." An inmate may designate in writing an agent outside the institution to receive his mail, either through an authorized address of the agent, if the mail is so addressed, or at the delivery post office serving the institution, if the mail is addressed to the inmate at the institution.

Most departments of corrections have regulations that authorize officials at state institutions to examine mail addressed to prisoners. Under those regulations, mail containing cash or other contraband that violates the institution's policies regarding inmate mail is not delivered to the prisoners, but returned to the sender.

Domestic Mail Manual (DMM) F010.4.1, provides, in part, that mail that is undeliverable as addressed may be forwarded, returned to the sender, or treated as dead mail, depending on the treatment authorized for that particular class of mail.

First-Class Mail that is undeliverable as addressed is returned to the sender, without additional postage.

The circumstances under which mail is considered to be undeliverable include the refusal of the mail by the addressee. Accordingly, if the prison officials properly refuse unopened First-Class Mail addressed to prisoners, that mail may be returned to the senders without additional postage.

The refusal of mail under DMM D042.1.2 and D042.1.3 is not precluded by the fact that it is the prison officials, rather than the addressee or intended recipient (i.e., the prisoner), who attempt to refuse the mail. Postal regulations contemplate that the addressee or his authorized agent will control the delivery of the addressee's mail, including decisions to refuse the mail. Mail addressed to inmates of an institution is delivered to the institution's officials who are considered to be the inmates' agents for purposes of mail delivery. Therefore, prison officials may refuse an inmate's mail, if the refusal is one in accordance with Postal Service procedures for refusing mail.

A mail piece which has been properly delivered to the addressee may not be returned as refused once it has been opened. If the piece is to be returned to the sender, it must be resealed and the legal rate of postage must be affixed to it.

Anita J. Bizzotto
Manager

Delivery Services

615 Delivery to Persons at Hotels, Institutions, and Schools**615.1 Mail Addressed to Patients or Inmates**

Mail addressed to patients or inmates at institutions is delivered to the institution authorities who, in turn, deliver the mail to the addressee under the institution's rules and regulations. If the addressee is no longer at that address, the mail must be redirected to his or her current address by the institution. If the forwarding address is unknown, the mail is returned to the post office.

615.2 Mail Addressed to Persons at Hotels, Schools, and Similar Places

Mail addressed to persons at hotels, schools, and similar places is delivered to the hotel or school. If the addressee is no longer at that address, the mail is redirected to his or her current address by the hotel or school. If the forwarding address is unknown, the mail is returned to the post office. For mail addressed to prisoners, see ASM 274.96.

615.3 Registered Mail Addressed to Persons at Hotels and Apartment Houses

Registered mail addressed to persons at hotels and apartment houses is delivered to the persons designated by the management of the hotel or apartment house in a written agreement with the USPS, Form 3801-A, *Agreement by a Hotel, Apartment House, or the Like*, must be executed for this purpose. If delivery of the registered mail is restricted by the sender, it may not be delivered to the representative of the hotel or apartment house unless the addressee has authorized that person in writing to receive his or her restricted-delivery mail. Authorization may be made on Form 3849, *Delivery Notice/Reminder/Receipt*; Form 3801, *Standing Delivery Order*; or by a letter to the postmaster.

616 Conflicting Orders by Two or More Parties for Delivery of Same Mail**616.1 Delivery to Receiver**

Where persons make conflicting orders for delivery of the same mail, and they are unable to agree among themselves which party should receive the mail, the mail may be delivered to a named receiver or third party unanimously agreed to by the disputing parties.

CERTIFICATE OF SERVICE

I, John O. J. Shellenberger, hereby certify that the Defendants' Answer, Brief, and Exhibits in Opposition to Motion for Preliminary Injunction, has been filed electronically and is available for viewing and downloading from the ECF system. I further certify that true and correct copies of the Defendants' Answer, Brief, and Exhibits in Opposition to Motion for Preliminary Injunction, were mailed on October 10, 2003 by first class mail, postage prepaid, to:

Derrick Dale Fontroy, AY-7513;
Theodore B. Savage, CB-2674;
Aaron Christopher Wheeler, BZ-2590
James S. Pavlichko, DK-0199
State Correctional Institution
at Graterford
P.O. Box 244
Graterford, PA 19426-0244

D. MICHAEL FISHER
ATTORNEY GENERAL

BY: s/ John O. J. Shellenberger
John O.J. Shellenberger
Chief Deputy Attorney General
Identification No. 09714

OFFICE OF ATTORNEY GENERAL
21 S. 12th Street, 3rd Floor
Philadelphia, PA 19107-3603
Telephone: (215) 560-2940